

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

DAMIAN STINNIE, MELISSA ADAMS, and ADRAINNE JOHNSON, individually, and on behalf of all others similarly situated; WILLIEST BANDY, and BRIANNA MORGAN, individually, and on behalf of all others similarly situated,

Plaintiffs,

v.

RICHARD D. HOLCOMB, in his official capacity as the Commissioner of the VIRGINIA DEPARTMENT OF MOTOR VEHICLES,

Defendant.

Civ. No: 3:16-cv-00044

PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AS TO ALL COUNTS

Pursuant to Federal Rule of Civil Procedure 56, and for the reasons stated in the accompanying memorandum, Plaintiffs Damian Stinnie, Melissa Adams, Adrainne Johnson, Williest Bandy, and Brianna Morgan (collectively "Plaintiffs"), by their undersigned counsel, hereby move the Court for an order granting summary judgment against Defendant Richard D. Holcomb as to all counts.¹ Pursuant to Local Rule 56(b), a statement of undisputed facts is included as a separate section in Plaintiffs' memorandum.

¹ Plaintiffs' filed their motion for class certification on September 11, 2018 (Dkt. 85) and the motion remains pending at this time. Plaintiffs file the present Motion for Summary Judgment to comply with the deadline set forth in the scheduling order and with the understanding that the decision on certification will be made prior to a ruling on the present Motion for Summary Judgment. *See* Newberg on Class Actions § 7:8. However, courts have held that a Rule 23(b)(2) class that seeks primarily injunctive relief does not implicate the concerns of one-way intervention

Dated: June 3, 2019

Respectfully submitted,

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because of the mandatory nature of the class. *See, e.g., Gooch v. Life Inv'rs Ins. Co. of Am.*, 672 F.3d 402, 433 (6th Cir. 2012); *Paxton v. Union Nat'l Bank*, 688 F.2d 552, 558–59 (8th Cir. 1982).

CERTIFICATE OF SERVICE

I hereby certify that on June 3, 2019, I electronically filed the foregoing instrument with the Clerk of Court using the CM/ECF System, which will send a notification of such filing to the following CM/ECF participants:

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